

SUBCOMMITTEE NO. 3

Health & Human Services

Agenda

Chair, Senator Denise Ducheny

Senator George Runner
Senator Tom Torlakson



April 11, 2005

1:30 PM

Room 4203

(Diane Van Maren)

<u>Item</u>	<u>Department</u>
4300	Department of Developmental Services
	<ul style="list-style-type: none">• Community-Based Services (<i>Selected Issues</i>)• State Developmental Centers (<i>Selected Issues</i>)

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. Additional issues regarding this department will also be discussed at future hearings. *Please* see the Senate File for dates and times of subsequent hearings.

Testimony will be limited due to the volume of issues. Please be direct and brief in your oral comments so that others may have the opportunity to testify. Written testimony is also welcomed. Thank you for your cooperation.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

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Item 4300 Department of Developmental Services

I. BACKGROUND OVERALL

Description of Eligibility & Purpose of Department

The Department of Developmental Services (DDS) administers services in the community through 21 Regional Centers (RC) and in state Developmental Centers (DC) for persons with developmental disabilities as defined by the provisions of the Lanterman Developmental Disabilities Services Act. To be eligible for services, the disability must begin before the consumer's 18th birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.

The purpose of the department is to: (1) ensure that individuals receive needed services; (2) ensure the optimal health, safety, and well-being of individuals served in the developmental disabilities system; (3) ensure that services provided by vendors, Regional Centers and the Developmental Centers are of high quality; (4) ensure the availability of a comprehensive array of appropriate services and supports to meet the needs of consumers and their families; (5) reduce the incidence and severity of developmental disabilities through the provision of appropriate prevention and early intervention service; and (6) ensure the services and supports are cost-effective for the state.

Description and Characteristics of Consumers Served

The department occasionally produces a Fact Book which contains pertinent data about persons served by the department. The sixth annual edition, released in December 2004 contains some interesting data, including the following facts:

Department of Developmental Services—Demographics Data from 2004

Age	Number of Persons	Percent of Total	Residence Type	Number of Persons	Percent of Total in Residence
Birth to 2 Yrs.	21,424	11.0%	Own Home-Parent	138,141	71.0%
3 to 13 Yrs.	56,681	29.1%	Community Care	26,3760	13.6%
14 to 21 Yrs.	32,024	16.5%	Independent Living /Supported Living	16,583	8.5%
22 to 31 Yrs.	27,144	14.0%	Skilled Nursing/ICF	8,728	4.5%
32 to 41 Yrs.	23,079	11.9%	Developmental Center	3,467	1.8%
42 to 51 Yrs.	19,648	10.1%	Other	1,159	0.6%
52 to 61 Yrs.	9,899	5.1%			
62 and Older	4,555	2.3%			
Totals	194,454	100%		194,454	100%

Summary of Governor's Proposed Budget Overall

The budget proposes total expenditures of \$3.7 billion (\$2.3 billion General Fund), for a net increase of \$166.4 million (\$129.8 million General Fund) over the revised 2004-05 budget, to provide services and supports to individuals with developmental disabilities living in the community or in state Developmental Centers. The proposed \$166.4 million (\$129.8 million General Fund) augmentation represents an increase of 4.7 percent over the revised current year.

Of the total amount, \$2.954 billion (\$1.947 billion General Fund) is for services provided in the community, \$699.2 million (\$373.2 million General Fund) is for support of the state Developmental Centers, \$36.4 million (\$24.1 million General Fund) is for state headquarters administration, and \$502,000 (General Fund) is for state-mandated local programs.

Table: Department of Developmental Services Budget

Summary of Expenditures				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
Program Source				
Community Services Program	\$2,766,542	\$2,953,691	\$187,149	6.8
Developmental Centers	\$721,541	\$699,232	(\$22,309)	(3.1)
State Administration	\$35,324	\$36,427	\$1,103	3.1
State Mandated Local Program	\$4	\$502	\$498	125
Total, Program Source	\$3,523,411	\$3,689,852	\$166,441	4.7
Funding Source				
General Fund	\$2,214,571	\$2,344,424	\$129,853	5.9
Federal Funds	\$53,908	\$55,730	\$1,822	3.4
Program Development Fund	\$1,497	\$2,268	\$771	51.5
Lottery Education Fund	\$2,204	\$2,204	--	--
Developmental Disabilities Services	\$300	\$0	(\$300)	(100)
Reimbursements: including Medicaid Waiver, Title XX federal block grant and Targeted Case Management	\$1,250,931	\$1,285,226	\$34,295	2.7
Total Expenditures	\$3,523,411	\$3,689,852	\$166,441	4.7

II. COMMUNITY BASED SERVICES

Background on Regional Centers

The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers.

RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

Summary of Funding and Funding Sources

The budget proposes expenditures of \$2.953 billion (\$1.9 billion General Fund) for community-based services, provided via the RCs, to serve a total of 208,000 consumers living in the community. This funding level includes \$461.7 million for RC operations and \$2.471 billion for the purchase of services, including funds for the Early Start Program and habilitation services.

The budget reflects a *net* overall increase of \$187.1 million (\$142.6 million General Fund), or 6.8 percent, over the revised current year budget for RCs. Most of this increase is attributable to: (1) an increase in enrollment — 8,765 new consumers; (2) an increase in the utilization of services by consumers; (3) restoration of a one-time \$29.9 million adjustment associated with the availability of reimbursements for South Central Los Angeles Regional Center; (4) updated community placement plan funding to reflect some consumers transitioning from Agnews Developmental Center to the community; and (5) an increase for RC operations pertaining to activities associated with the Home and Community-Based Waiver.

Summary of Key Federal Fund Sources (Waiver and others)

Over the years the DDS has been successful in attaining the receipt of federal funds for community-based services. Unlike the state's Developmental Centers, which receive a 50 percent federal match for every \$1 dollar of state General Fund expenditures, community-based services rely primarily on state General Fund support, along with certain limited federal funds, most notably the Home and Community-Based Waiver.

Under the Home and Community-Based (HCB) Waiver, the DDS is able to obtain federal funds for certain eligible consumers who are receiving RC-purchased services. Without these services, these eligible consumers would require the level-of-care provided in an Intermediate Care Facility. Enrollment in this Waiver is capped by the federal government at 70,000 eligible individuals as of October 1, 2005. The budget assumes receipt of about \$615 million in federal funds from this source in 2005-06. These federal funds do require a state General Fund match (i.e., the match is 50/50 percent).

Summary of Enrollment

The following chart depicts consumer enrollment for RC services over the last five-years.

Regional Center Enrollment Chart			
Fiscal Year	RC Enrollment	Yearly Difference in Consumers	Percent Increase
2000-01	163,613	8,651	5.6%
2001-02	172,714	9,101	5.6%
2002-03	182,175	9,461	5.5%
2003-04	190,116	7,941	4.4%
2004-05	199,255	9,139	4.8%
(Estimated)			
2005-06	208,020	8,765	4.4%
(Proposed)			

- The DDS notes that several key factors appear to be driving caseload growth trends, including the following:
- Improved medical care and technology has increased life expectancies for individuals with developmental disabilities;
- Significant increase in the diagnosed cases of autism, the causes of which are not yet fully understood; and
- Likelihood that medical professionals are identifying more developmentally disabled individuals at an earlier age.

A. ITEMS FOR VOTE ONLY

1. Regional Center Affordable Housing Projects—Consultant Services

Issue: The Subcommittee is in receipt of a Finance Letter. This letter requests two distinct actions regarding housing projects and identifies \$69,000 in General Fund savings.

First, it proposes to save \$69,000 in General Fund support by backfilling with Developmental Disabilities Services Account Funds (DDSA). A total of \$90,000 (General Fund) was proposed in the Governor’s January budget for an interagency agreement between the DDS and the state Department of Housing and Community Development (HCD). The HCD monitors 16 housing projects for the DDS. The Finance Letter would now appropriate \$90,000 with only \$21,000 from General Fund support.

These housing projects occurred pursuant to the Coffelt Settlement Agreement of 1993. The Coffelt Settlement Agreement required the DDS to develop a five-year plan to reduce the resident population of the Developmental Centers by a net of 2,000 individuals. As such, funds were allocated to create affordable housing options.

Second, in the current year, the DDS received \$300,000 (one-time only General Fund) for housing-related consulting services. The DDS states that the contract for this was executed in January 2005. However because the long-term deliverables will require additional time beyond 2004-05 to complete, a reappropriation is being requested.

The proposed Budget Bill Language for the reappropriation is as follows:

“Item 4300-490—Reappropriation, Department of Developmental Services.

Notwithstanding any other provision of law, as of June 30, 20005, the balances specified below of the appropriations provided in the following citations are reappropriated for the purposes specified and shall be available for encumbrances or expenditure until June 30, 2006, unless otherwise stated.

0496—Developmental Disabilities Services Account

(1) Balance of Item 4300-101-0496, Budget Act of 2004 (CH. 208, Stats. 2004)”

It should be noted that creation of affordable housing is an objective pursuant to the 1994 court decision commonly referred to as the Coffelt Agreement. Specifically, \$3.7 million was allocated to create affordable housing for individuals with developmental disabilities through the Affordable Housing Program.

Subcommittee Staff Recommendation: The Finance Letter proposal is reasonable. No issues have been raised. It is recommended to adopt the Finance Letter.

B. ITEMS FOR DISCUSSION

1. Regional Center Caseload—Over Estimated (*Technical Discussion*)

Issue: In her *Analysis*, the Legislative Analyst recommended a reduction of \$9 million (General Fund) in *both* 2004-05 and 2005-06 due to the over budgeting of caseload in the DDS' Regional Center estimate package.

Since the release of the *Analysis*, the LAO has learned that while the DDS did not adjust for lower-than-projected caseload levels for 2004-05 (current year), the caseload trend was indeed adjusted for 2005-06. The LAO notes that while the DDS has said they did adjust for 2005-06, the LAO could not conclusively confirm the DDS' claims that the budget year adjustments were made based on the display of information contained in the DDS' Regional Center estimate package. However, the DOF has confirmed this fact.

The LAO has serious concerns about the way caseload data and related fiscal adjustments are displayed in the estimate package. As such the LAO and DDS will be working to update the estimate formats in order to more clearly display data.

Therefore, the LAO recommends a reduction of \$8.6 million (General Fund) (i.e., \$7.2 million from RC Purchase of Services, and \$1.4 million from RC Operations) for 2004-05. Further, the LAO notes that they will be reviewing the budget year caseload adjustments at the May Revision.

Subcommittee Staff Comment and Recommendation: Subcommittee staff concurs with the LAO recommendation to reduce by \$8.6 million (General Fund) to reflect over budgeting due to lower-than-expected caseload for the current-year.

Questions:

1. DDS, Do you concur with the LAO's estimate for the current-year reduction due to lower-than-expected caseload for 2004-05?

2. Cost Containment--Budget Act of 2003, 2004 & Governor's Proposed Budget
(See Hand Outs)

Issue: The Governor proposes to continue several cost containment actions that were enacted as part of the Budget Acts of 2003 and 2004. The table below provides a summary of the fiscal affects of these prior year actions as they pertain to the revised current-year funding and budget year funding. In total, the actions would save \$84.4 million General Fund in 2005-06.

Table: Summary of Existing Cost Containment Proposed to Carry into 2005-06

Previously Implemented Cost Containment Measures	Revised 2004-05		2005-06	
	Total	General Fund	Total	General Fund
RC Operations Total	-\$10,353,000	-\$10,353,000	-\$10,011,000	-\$10,011,000
1. Delay in Assessment (60 to 120 Days)	-4,465,000	-4,465,000	-4,465,000	-4,465,000
2. Family Cost Participation	570,000	570,000	912,000	912,000
3. 2004-05 Unallocated Level	-6,458,000	-6,458,000	-6,458,000	-6,458,000
RC Purchase of Services Total	-\$70,037,000	-\$60,498,000	-\$85,997,000	-\$73,421,000
1. Day Program Rate Freeze	-5,771,000	-4,184,000	-16,709,000	-12,114,000
2. Contract Services Rate Freeze	-11,375,000	-8,963,000	-11,565,000	-9,193,000
3. Community Care Facility (CCF) Rate Freeze	-12,389,000	-7,433,000	-12,389,000	-7,433,000
4. Elimination of the SSI/SSP Pass-Through to CCFs	-1,461,000	-877,000	-1,631,000	-978,000
5. Non-Community Placement Start-up Suspension	-5,962,000	-5,962,000	-5,962,000	-5,962,000
6. Family Cost Participation	-570,000	-570,000	-3,143,000	-3,143,000
7. Reduced Growth Trend	-11,357,000	-11,357,000	-11,357,000	-11,357,000
8. 2003-04 Unallocated Level	-10,000,000	-10,000,000	-10,000,000	-10,000,000
9. 2004-05 Unallocated Level	-7,000,000	-7,000,000	-7,000,000	-7,000,000
10. Revision of Eligibility Definition	-4,152,000	-4,152,000	-6,241,000	-6,241,000
11. Habilitation Services Rate Freeze	-1,232,000	-949,000	-1,209,000	-931,000
TOTALS	-\$81,622,000	-71,800,000	-\$97,217,000	-\$84,363,000

Specifically, the proposals are as follows (corresponds to the table above):

- *Delay in Assessment (RC operations):* Through the Budget Act of 2002, trailer bill language was adopted to extend the amount of time allowed for the Regional Center's to conduct assessment of new consumers from 60 days to 120 days following the initial intake. The Governor proposes to continue this extension through 2005-06 through trailer bill language. This is the same language as used in previous years.

- Family Cost Participation (RC operations and purchase of services): Through the Budget Act of 2004, trailer bill legislation was adopted to implement a Family Cost Participation Program by January 1, 2005. Under this program, families with incomes greater than 400 percent of poverty based on income and family size, that purchase Respite, Day Care, or Camp services must pay a parental co-payment. This program has been implemented by the DDS.
- 2004-05 Unallocated Reductions (RC operations and purchase of services): An unallocated reduction of \$6.4 million (General Fund) for RC Operations was adopted in the Budget Act of 2004, as well as a reduction of \$7 million (General Fund) for the Purchase Of Services.
- Day Program Rate Freeze: Day Programs are community-based programs for individuals served by a Regional Center. Types of services available through a Day Program include: (1) developing and maintaining self-help and self-care skills, (2) developing the ability to interact with others, (3) developing self-advocacy and employment skills, (4) developing community integration skills such as accessing community services, and (5) improving behaviors through behavior management. The rate freeze means that providers who have a temporary payment rate in effect on or after June 30, 2003 cannot obtain a higher permanent rate. The Administration's proposed trailer bill language is the same as last year's, with a date extension to include 2005-06.
- Contract Services Rate Freeze: Some Regional Centers contract, through direct negotiations, with providers for certain services in lieu of the DDS setting an established rate. Continuation of the rate freeze would mean that Regional Centers cannot provide a rate greater than was in effect as of June 30, 2004. The Administration's proposed trailer bill language is the same as last year's, with a date extension to include 2005-06.
- Community Care Facility (CCFs) Rate Freeze and Elimination of Pass Through: The Budget Act of 2003 froze the CCF rates. Further, the SSI/SSP cost-of-living-adjustment that is paid to CCFs by the federal government is being used to off-set General Fund expenditures for these services (off-set is \$1.6 million General Fund for 2005-06).
- Non-Community Placement Start-Up Suspension (RC purchase of services): Under this proposal, a Regional Center may not expend any Purchase of Services funds for the startup of any new program unless the expenditure is necessary to protect the consumer's health or safety or because of other extraordinary circumstances, and the DDS has granted authorization for the expenditure. The Administration's proposed trailer bill language would continue this freeze through 2006-07, or one-year longer than all of the other proposals.
- 2003-04 Unallocated Reduction (RC Purchase Of Services): An unallocated reduction of \$10 million (General Fund) for RC Purchase of Services was enacted for this year and is continued in the base.

- *Revision of Eligibility:* The Budget Act of 2003 and accompanying trailer bill language prospectively implemented the use of the federal standard for “substantial disability” to existing state Lanterman Act eligibility criteria. This revision, effective July 1, 2003, requires a person to have deficits in at least three of the seven life domains (i.e., communication skills, learning, self-care, mobility, self-direction, capacity for independent living, and economic self-sufficiency).
- *Habilitation Services Rate Freeze:* The Habilitation Services Program consists of the (1) Work Activity Program (WEP), and (2) Supported Employment Program (SEP). The WAP services are primarily provided in a sheltered setting and are reimbursed on a per-consumer-day basis. SEP enables individuals to work in the community, in integrated settings with support services provided by community rehabilitation programs. The Administration’s proposed trailer bill language would continue the rate freeze into 2005-06.

Subcommittee Staff Comment and Recommendation: It is recommended to adopt the Governor’s proposal regarding these items, *except* for one trailer bill language change. With respect to the “non-community placement start-up” issue, it is recommended to extend this proposal for 2005-06 only, and not include 2006-07 in the language.

Questions:

1. DDS, Please briefly describe the budget proposal.
2. DDS, Has the DDS identified any significant reduction in services that has occurred due to these actions?
3. DDS, Please describe the exemptions that have been provided for health and safety concerns (See Hand Outs).

3. Finance Letter—Reappropriation of Cost Containment Consultant Services

Issue: The Subcommittee is in receipt of a Finance Letter that requests to reappropriate \$488,000 (General Fund) from the Budget Act of 2004 to continue certain cost containment activities related to the following:

- Development of a rate-setting methodology for rates that are negotiated between RCs and providers;
- Improvements to the reporting of service delivery data; and
- Automation of the submission of vendor cost information.

The Budget Act of 2004 provided a one-time only appropriation of \$600,000 (General Fund) for the DDS to conduct various cost containment functions. Of this amount, \$112,000 is expected to be used in the current year.

Specifically, the DDS intends to use \$112,000 for consultation services related to the federal Waiver (“Independence Plus”) for the Self-Directed Services Program. The Legislature did provide approval for the DDS to proceed with this Waiver. The \$112,000 is to be used for developing training materials and to provide various types of technical assistance.

DDS is requesting to reappropriate the remaining \$488,000 (General Fund) for consultation services related to: (1) automating cost statements for Day Programs, In-Home Respite Agencies and Work Activity Programs; (2) analyzing and developing recommendations for standardizing 16 RC Purchase Of Services areas experiencing high rates of growth; and (3) researching geographic cost issues to be considered when developing or revising rate-setting processes.

Subcommittee Staff Comment and Recommendation: The request to reappropriate the remaining \$488,000 (General Fund) provided in the Budget Act of 2004 is consistent with the original legislative intent of the appropriation. It should be noted that any recommendations the DDS may develop regarding rates would need to be discussed and reviewed by the Legislature as part of the budget process. It is therefore recommended to adopt the Finance Letter.

Questions:

1. DDS, Please explain how the initial \$112,000 (General Fund) has been spent, and how the remaining \$488,000 is to be used.

4. Governor's Proposed Additional Cost Containment Issues (See Hand Out)

Issue: The Governor proposes substantial policy changes through trailer bill legislation to grant Regional Centers (RCs) broad authority for reducing Purchase of Services (POS) expenditures. For 2005-06, a net savings of \$7.8 million (\$4.3 million General Fund) is assumed from these changes.

For RC POS, savings of \$14 million (\$10.5 million General Fund) are assumed in 2005-06 with total savings of at least \$41.9 million (\$31.4 million General Fund) annually once the phase-in has been completed.

It should be noted that the Legislature has rejected similar proposals for the past three years.

It is assumed that RCs would apply these new requirements at the time of an individual's program plan (IPP) development or scheduled review. An individual's IPP is to be reviewed no less than once every three years. As such, the budget assumes that one-third of the RC population (208,000 people) would have their plans reviewed each year. The proposed cumulative savings from these new requirements are as follows:

Table: Summary of Governor's Additional Reductions for Further Cost Containment

Fiscal Year and Cumulative Effect	Total Proposed POS Reductions Due to New Requirements	Proposed Savings in General Fund
2005-06 One-third of population is reviewed.	\$14 million	\$10.5 million
2006-07 Continue 2005-06 savings and review next one-third of population.	\$28 million	\$20.9 million
2007-08 Continue 2005-06 and 2006-07 savings and review next one-third of population.	\$41.9 million	\$31.4 million

The Governor is also proposing an augmentation of \$6.2 million (General Fund) to RC operations for implementation of the proposed POS requirements. This increased funding is to be used as follows: (1) 52 new positions; (2) \$302,000 for office rent; (3) \$500,000 for increased administrative law hearings; (4) \$240,000 for annual statements of POS; and (5) \$170,000 in other operating expenditures.

The Governor's proposed POS requirements and their anticipated component savings are as follows:

- **1. Vendor Selection Based On Lowest Cost:** The cost of providing services by different vendors, if available, would be reviewed by an RC and the least costly vendor who is able to meet the consumer's needs, as identified in the consumer's IPP, would be selected. This provision is assumed to save \$25 million (\$18.4 million General Fund) annually when fully implemented.

- 2. Statement of RC Services: RCs would annually provide the consumer or their parent/guardian a statement of RC purchased services and supports. This statement would include the type, unit, and cost of the services and supports. This provision of the guidelines is intended to serve as a validation that the described services and supports are indeed being provided to the consumer by the designated vendor. This guideline is intended to save \$6.2 million (\$4.6 million General Fund) annually when fully implemented.
- 3. Directs RCs to Adhere to Existing Laws and Regulations In Purchasing Services: RCs would be directed to establish internal processes to ensure that (1) their staff is following all laws and regulations when purchasing services and supports for consumers, and (2) other services, such as generic services provided by other agencies in the community, are pursued and used prior to authorizing the expenditure of RC funds for consumers. It is anticipated that \$6.2 million (\$4.6 million General Fund) in savings would be obtained annually when fully implemented.
- 4. Services to a Minor Child: Under the Governor's proposal, legislation would be enacted to require RCs to take into account the family's responsibility for providing similar services to a minor child without disabilities when determining which services or supports would be purchased by the RC for the child. It is assumed that \$2.7 million (\$2.4 million General Fund) would be achieved annually when fully implemented.
- 5. RC Clinical Review: RCs would be required to have a clinician review all requests for certain services and supports prior to the RC authorizing their purchase for the consumer. This review would pertain to certain supplemental program supports, assistive technology and environmental adaptations, behavioral services, specialized medical or dental services, and therapeutic services. The Administration assumes savings of \$1 million (\$750,000 General Fund) annually when fully implemented.
- 6. Use of Group Modality: RCs would be directed to give preference for purchasing a service or support using a group modality, in lieu of an individual intervention, if a consumer's needs, as identified in their IPP, could be met using a group modality for the following services: Behavioral Services, Social and Recreation Activities, and Non-Medical Therapy Services. This provision is assumed to save \$800,000 annually when fully implemented.

Background—Individualized Program Plan (IPP): The provision of services and supports to consumers is coordinated through the Individualized Program Plan (IPP). The IPP is prepared jointly by an interdisciplinary team consisting of the consumer, parent/guardian/conservator, persons who have important roles in evaluating or assisting the consumer, and representatives from the Regional Center and/or state Developmental Center. Clinicians or others are to be involved in the IPP process when needed to complete the IPP.

Services included in the consumer's IPP are considered to be entitlements (court ruling).

In addition, as recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to “generic” services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors. This is intended to be reflected in the IPP process.

Constituency Concerns: The Subcommittee is in receipt of numerous letters opposing the Governor’s additional cost containment strategies. Of particular concern is: (1) the “assault” on the IPP process; (2) the belief that the proposals violate federal Medicaid “freedom of choice” protections provided under the Home and Community-Based Waiver, and (3) the belief that the state’s quality assurance obligations under the Home and Community-Based Waiver would be violated.

Subcommittee Staff Comment: The Legislature has rejected similar proposals for the past three years. First and foremost is that the proposed trailer bill language gives the Administration carte blanche authority in making programmatic decisions. The Legislature needs to maintain both the policy and fiscal integrity of the program.

Second, several of the Governor’s proposals are perplexing in that existing state statute already addresses some aspects of the proposal. For example, the Lanterman Act already has language requiring cost effectiveness as noted in Section 4512 of the Welfare and Institutions Code as follows:

“(b) The determination of which services and supports are necessary for each consumer shall be made through the individual program plan process. The determination shall be made on the basis of the needs and preferences of the consumer or, when appropriate, the consumer’s family, and shall include consideration of a range of service options proposed by the individual program plan participants, the effectiveness of each option in meeting the goals stated in the individual program plan, and the cost-effectiveness of each option.”

Therefore, the Regional Center is supposed to take cost-effectiveness into consideration already.

Another example of this is the Administration’s proposal to “direct RCs to adhere to existing laws and regulations in purchasing services”. Why aren’t RCs following the law and regulations now? Sections 4630 and 4631 of the Welfare and Institutions Code provide the DDS with broad authority to require the RCs to contract with the state and to meet specific requirements. Therefore, why is this not being done now? What is the purpose of the contract process?

Yet another example of this is the Administration’s proposal to require Regional Center’s to provide the consumer or their parent/guardian with annual statements of the services and supports which were obtained for them. The intent is to serve as a validation that the described services were indeed provided. In essence, it is a provider anti-fraud measure. Why is trailer bill language needed for this? Why can’t the DDS either direct the RCs to

do this through contract language or why don't the RCs do it now as a good business practice?

Lastly, it is unclear how an individual's IPP would be affected by these proposals.

Questions:

1. DDS, Please briefly describe each aspect of the proposal.
2. DDS, Why can't some of these cost-containment issues be addressed with contract language between the state and the Regional Centers?
3. DDS, How may an individual's IPP be affected by this proposal?
4. DDS, Would any services have to be eliminated? If so, which ones?
5. DDS, What may be the unintended consequences of this proposal?
6. How may this proposal interact with the other cost containment proposals?

5. Proposed Augmentation for RC Operations (See Hand Outs)

Issue: The Governor is seeking a \$10.6 million (General Fund) increase for RC Operations contending that this level of funding is needed to help RCs maintain compliance with the federal Centers for Medicare and Medicaid Services (CMS) for the Home and Community-Based Services Waiver.

The Administration contends that funds are available for this purpose because in the current-year additional federal funds were provided to the state by the federal government for expenditures related to the Home and Community-Based Waiver and the Targeted Case Management Program. However, as noted by the LAO, the increase of \$19.4 million (federal funds) provided by the federal government pertained to repayments for past expenses (i.e., General Fund monies were spent and the federal government provided reimbursement).

In essence the Administration was seeking to spend \$10.6 million of the \$19.4 million received instead of using the entire \$19.4 million to offset General Fund expenditures completely.

As noted by the table below, the \$10.6 million proposed increase represents a 36 percent increase in Waiver funding for RC Operations. The DDS has allocated a total of \$29.5 million (total funds) to the RCs for operations expenditures relating to the Home and Community-Based Waiver in 2004-05.

Table: Current DDS Allocations to RCs for Operations related to Waiver

Description of Key Waiver Component	2004-05 Amount Allocated to RCs (Total Funds)
1. Waiver Operations	\$21.1 million
2. Federal Program Coordinator & Support Staff	\$1.7 million
3. Federal Compliance Specialist & Related Staff	\$3.9 million
4. Accelerated Enrollments for new consumers (RC staff)	\$2.7 million
TOTALS	\$29.4 million

Table Notes: 1= Funding for operations costs for Medicaid activities.
2= Funding to coordinate federal programs (including Waiver and others).
3= Funding for ongoing tasks, such as reviewing choice statements, handling notice of action issues, completing annual Wavier certification/recertification forms, determining billable services, data reconciliation, maintaining records and related items.

The proposed increase of \$10.6 million (General Fund) is the exact same dollar amount that constitutes “prior-year unallocated reductions”. In fact, the DDS acknowledges that this \$10.6 million (General Fund) “prior-year unallocated reductions” is indeed the basis for the requested increase.

Originally, the DDS was seeking this funding increase in the current-year through a Section Letter adjustment. But as noted in the **Hand Out package** (letter dated March 1, 2005), the Joint Legislative Budget Committee (JLBC) denied the current-year request and deferred the issue to budget-year deliberations.

The JLBC Letter noted that (1) the dollar amount was the same as the unallocated RC Operations amount, (2) no explanation had been provided on how these funds would be distributed to, and expended by Regional Centers, in order to ensure compliance with the Home and Community-Based Waiver requirements.

Specifically, the DDS' RC Estimate Package for the budget states that the \$10.6 million (General Fund) is needed for the RC's to maintain compliance with federal CMS caseload ratio requirements for the Home and Community-Based Waiver. The DDS declares that at least 11 of the 21 RCs are out of compliance with one or more of the federal CMS caseload requirements based on their survey data which is self-reported by the Regional Centers. (A ratio of 1 case manager to 62 consumers is required for Home and Community-Based Waiver consumers.)

However even if the increased funding was provided, the DDS states in budget documents that the additional funding will not fully remove the state's exposure when the federal CMS conducts their Waiver compliance audit, anticipated to be sometime within the next year.

Background—RC Operations Expenditures Overall: The DDS developed the RC Operations "Core Staffing" formula in 1978. The purpose of this formula was to estimate personnel and related expenditures across all 21 RCs in order to ensure accurate budgeting and facilitate fiscal equity at the RCs across the state. Since this time, the formula has been periodically modified to account for certain changes or trends. However it has been well documented (Citygate and Associates Report of 1998) that the Core Staffing formula no longer accurately reflects the costs of Operations at the RCs. That said, it is still the tool DDS uses for the development of the RCs Operations budget.

As noted in the table below, the RC Operations budget consists of several "core" functions for which the DDS provides a fiscal allocation. (The 2004-05 fiscal year was used for illustration purposes since the DDS has already allocated these funds and since it is anticipated that few adjustments would be made to the current year.)

Summary of 2004-05 DDS Allocation for RC Operations

RC Operations Description	Statewide Positions	DDS Allocation	Core Functions % to Total	% to Total
Personal Services:				
I. Direct Services				
a. Clinical	791.6	\$40,954,827	11.09%	
b. Intake/Case Management	3,953.7	139,293,904	37.70	
c. Quality Assurance & Monitoring	369.6	13,195,123	3.57	
d. Early Intervention	797.4	12,612,411	3.41	
e. Community Services	140.8	6,448,960	1.75	
f. Special Incident Reporting	96.7	3,900,621	1.06	
g. Mediation	2.5	116,462	.04	
Subtotal Direct Services	6,152.3	\$216,522,308	58.61%	
2. Administration				
a. Executive Staff	63	\$3,275,790	.89	
b. Fiscal	436.9	8,974,180	2.43	
c. Computer Systems & Human Resources	147	7,912,695	2.14	
d. Clerical Support	1,129.5	22,855,293	6.19	
Subtotal Administration	1,776.4	\$43,017,958	11.65%	
Total Positions and Salaries	7,928.7	\$259,540,266	70.26%	
Fringe Benefits		59,122,083	16.0	
Salary Savings		-10,307,885	-2.79	
TOTAL Personal Services		\$308,354,464	83.47%	
Rent		32,491,653	8.80	
Operating Expenses		28,552,471	7.73	
Subtotal Operating Expenses		\$61,044,124	15.53%	
TOTAL "Core" Functions		\$369,398,588	100%	
Other Functions:				
Home & Community-Based Waiver		\$29,451,752		7.43%
Targeted Case Management		4,129,000		1.04
Nursing Home Reform		423,000		.11
Community Placement Plan		10,938,000		2.76
Foster Grandparent		1,118,359		.28
Sherry S.		603,674		.15
Family Resource Centers		1,095,677		.28
Real Choice Systems Grant		176,000		.04
Wellness		5,000		--
Prior Unallocated Reduction		-5,968,000		-1.51
<i>2004-05 Unallocated Reduction</i>		<i>-10,559,000</i>		<i>-2.66</i>
Intake and Assessment 60 to 120 Days		-4,465,000		-1.12
Subtotal Other Functions		\$26,948,462		6.8%
TOTAL RC Operations		\$396,347,000		100%

Subcommittee Staff Comments and Recommendations: According to the DDS caseload survey data, which is self-reported by the Regional Centers, some of the RCs have not been consistently meeting their RC case manager to consumer ratios. However it is unclear as to why some of the RCs meet their ratios and others do not. Though the DDS allocates funds based on “Core” formulas, the RCs do not have to expend funds in this manner.

Further it is not clear as to how the proposed funds would be allocated across Regional Centers, and there is no controlling language (either Budget Bill Language or trailer bill legislation) that is being proposed by the DDS. Yet these are the same Regional Centers that need to be told to comply with existing laws and regulations (as contained in the Governor’s additional cost containment measures discussion, above).

It should also be noted that the DDS is in the process of crafting a Quality Management System (see Agenda item 6, below). As such, it is unclear as to how these proposed additional funds of \$10.6 million would link into this developing QMS.

Further, the DDS has not yet provided the Legislature with its report regarding Regional Center Operations which was due as of January 10, 2005.

The DDS should report back to the Subcommittee as to how these funds would be allocated, and how accountabilities would be undertaken by the Regional Centers for the expenditure of these funds, as well as how the DDS will monitor case manager to client ratios more directly. It is recommended to hold this issue “open” pending receipt of information as requested.

Questions:

1. LAO, Please provide a summary of the issue including the concerns expressed in the JLBC letter and any other pertinent information.
2. DDS, Please present the budget proposal.

6. DDS Headquarters' Request—Quality Management System for HCB Waiver & Developmental Centers to Meet federal CMS Requirements

Issue: The DDS requests an increase of \$522,000 (\$290,000 General Fund) to fund 4 new positions and operating expenses to support the development of a statewide Quality Management System (QMS) consistent with federal CMS requirements. Of this amount, \$12,000 (total funds) is for one-time only expenditures for computers and software.

In May 2004, the federal CMS issued updated interim procedures for states to follow regarding a quality assurance “framework” whereby states with Home and Community-Based Waivers will need to meet certain assurances. The “framework” defines quality through the delineation of desired outcomes for consumers across seven broad domains and 35 sub-domains. The seven domains include: (1) consumer access; (2) consumer-centered service planning and delivery; (3) provider capacity and capabilities; (4) consumer safeguards; (5) consumer rights and responsibilities; (6) consumer outcomes and satisfaction; and (7) financial integrity and system performance.

The DDS believes that existing structures adequately support a number of the seven domains. However, the domains of provider capacity and capabilities, participant safeguards, and system performance need significant enhancement to address federal CMS concerns.

The “framework” identifies the functions that are necessary for achieving desired outcomes as follows:

- Design: Design quality assurance and improvement strategies into the Waiver at the initiation of the program;
- Discovery: Collect data and direct participant experiences in order to assess the ongoing implementation of the program, identifying strengths as well as opportunities for improvement;
- Remedy: Taking actions to remedy specific problems or concerns that arise;
- Continuous Improvement: Utilize data and quality management information to engage in actions that assure continuous improvement in the program, at the consumer, vendor and systems levels.

DDS further notes that the state’s present system of quality assurance efforts rely heavily on the fragmented and varied quality assurance programs of the 21 RC’s, the design of which was done in the 1990’s. The federal CMS expects that states will move beyond current practice and take action to improve performance based upon information and analysis.

The state’s Developmental Centers would also benefit from the proposed “framework”. The department’s “framework” for the Developmental Centers will be consistent with the DDS’ overall design, including quality assurance and improvement strategies, data collection and analysis and continuous improvement. The DDS is including them in an effort to assure continued federal funding, minimize licensing and certification issues, and to improve consumer outcomes.

The four requested staff include the following: (1) one Community Program Specialist III position; (2) two Standards Compliance Coordinators; and (3) one Senior Information Systems Specialist. The Community Program Specialist position would be used to coordinate integration of existing quality assurance activities as well as initiate new functions for quality management, including identification of best practices.

The two Standards Compliance Coordinators would be used to, among other things, focus on the Developmental Centers to standardize consumer and family satisfaction surveys, analyze and manage risk management issues, review and analyze regulatory compliance data and conduct documentation audits. The Senior Information Systems Specialist would be used to provide technical support required to manage data retrieval, compilation, and analysis. They would work to define data requirements, monitor data collection, reporting and maintenance practices to ensure data reliability and validity.

It should be noted that the Budget Act of 2003 provided funding for 14 new DDS positions for auditing, monitoring and quality assurance activities. However, all 14 of these positions and funding were eliminated to meet their DOF unallocated reduction requirements.

Legislative Analyst's Office Comment and Recommendation: In her Analysis, the LAO indicates that the DDS does not sufficiently incorporate quality assurance measurements into the rate-setting methodologies that it uses, nor could it easily do so at this time. As such, the LAO concurs with the DDS proposal to develop statewide Quality Management System (QMS) consistent with federal CMS requirements.

Subcommittee Staff Comment and Recommendation: A more comprehensive Quality Management System that utilizes data and quality management information to engage in actions that assure continuous improvement in the Home and Community-Based Waiver both at the individual level and systems level is needed and warranted. It is recommended to approve the funding request of \$522,000 (\$290,000 General Fund) and the 4 DDS positions.

Questions:

1. DDS, Please provide a brief summary of the budget request.

7. Self-Directed Services Delivery Model—Local Assistance and DDS Support **(See Hand Outs)**

Issue: The DDS proposes to proceed with a federal Waiver to expand the existing Self-Directed Services Model (previously referred to as Self-Determination Model), an alternative service model that enables participants to receive an individual budget allocation *if they so choose*, in lieu of having a Regional Center purchase services for the individual. The DDS notes that a consumer enrolled into the Self-Directed Services Model could choose to return to the “traditional” service delivery system at any time.

This budget proposal contains four components as follows: (1) trailer bill language which deletes the existing Pilot Program; (2) trailer bill language which proposes the new program framework; (3) a reduction of \$300,000 (General Fund) in RC Purchase Of Services (POS) funds; and (4) an increase of \$500,000 (\$300,000 General Fund) to fund 5 positions at DDS Headquarters to implement and monitor the Waiver and the Self-Directed Services Model. Based on the DDS fiscal information provided, there would be no *net* General Fund impact in 2005-06.

As authorized through trailer legislation for the Budget Act of 2003, the DDS is proceeding with a federal “Independence Plus” Waiver to expand the existing Self-Directed Services Model. The Self-Directed Services Model is an alternative service model that enables participants to receive an individual budget allocation that will result in a 10 percent cost reduction in the *aggregate* to the state.

Five percent of this savings would be set aside for participating consumers’ unanticipated needs, and the remaining five percent is savings to the General Fund. It is assumed that 800 consumers will receive self-directed services in 2005-06 for savings of \$300,000 (General Fund).

It should be noted that *all* services provided to individuals enrolled into this Waiver would be eligible for federal matching funds. As such increased federal reimbursements would be available because not all services for consumers on the Home and Community-Based Waiver are eligible for federal matching funds. The net increase in federal reimbursements under this Waiver is estimated to be \$1.3 million in 2005-06, \$9.9 million in 2006-07 and \$26.5 million in 2007-08.

Table: *Preliminary DDS Fiscal Assessment for Out Years*

Fiscal Year	# of Consumers	DDS Staff (General Fund)	RC POS Savings/Cost Avoidance (General Fund)	RC Operations (General Fund)	Estimated <i>Net</i> General Fund Impact
2005-06	800	\$339,000	-\$2,231,000	\$900,00	\$245,000
2006-07	3,250	\$533,000	-\$12,338,000	\$1,988,000	-\$5,556,000
2007-08	10,460	\$729,000	-\$32,448,000	\$2,191,000	-\$16,987,000

The Self-Directed Services Model would be available to all Regional Center consumers who meet Waiver eligibility requirements and are over the age of 3 years. Unlike the Regional Center’s traditional service delivery model, this Waiver would provide an array of flexible, non-congregate services.

The DDS notes that self-determination offers consumers a person-centered planning process. Consumers would be able to arrange services in a manner that best suits their needs, and negotiate the service volume, cost and provider. For example, consumers could arrange part-day services rather than those that are offered for a full day.

A finite individual budget allocation would be used to purchase services. “Support brokerage” and financial management service entities would be available to assist consumers to arrange for needed services, as well as determine if prospective service providers meet the requisite qualifications.

Background on the Model: SB 1038 (Thompson), Statutes of 1998, created three “Self-Determination” Pilot Projects. These original pilot projects, including their respective Area Boards, were as follows: (1) Eastern Los Angeles Regional Center; (2) Tri-Counties Regional Center; and (3) Redwood Coast Regional Center. In addition to these, two more pilots were added at Kern Regional Center and San Diego Regional Center. Currently, about 145 consumers participate in these pilots.

Based on an independent evaluation done on these projects (Conroy, et al, March 2002), the evidence supports a positive conclusion: “Self determination is highly beneficial to, and extremely welcome to, participants and their families. The evidence also indicates that self-determination is inherently fiscally conservative.” As such the evidence supports a policy move from pilot towards large-scale system efforts.

Senate Bill 481 (Chesbro): Legislation has been introduced to implement the Self-Directed Services Program in a slightly different manner than proposed by the Administration in their trailer bill language. SB 481 is set to be reviewed next week in Senate Health Committee.

Subcommittee Staff Comment and Recommendation: As noted by the independent evaluation on the Pilot Projects, the Self-Directed Services Model offers many benefits to consumers and is overall cost-beneficial to the state. The Administration’s progression into a statewide program makes good policy and fiscal sense. It is proposed to be a voluntary program and a consumer may opt out of enrollment and return to the existing service system (i.e., RC system).

However there are a number of issues, mostly technical, that need to be worked out with both the Administration and constituents regarding the trailer bill language. It is believed that this can occur over the next month, prior to the Governor’s May Revision. As such it is recommended to keep this issue open pending these discussions.

Questions:

1. DDS, Please briefly describe how the Self-Directed Services Model would operate.

2. DDS, Please briefly describe the budget request, including the trailer bill language, implementation schedule and need for positions.
3. DDS, How would the consumers enrolled in this Waiver be monitored?
4. DDS, Have the existing Pilot Projects been successful?

8. Community-Based Preparation for Agnews Closure—Several Components Issues “A” Through “B”

ISSUE “A”—Presentation of Plan & Update on Current Year Housing of \$11.1 million

Issue: The Governor proposes to close Agnews Developmental Center, located in San Jose, by June 30, 2007, if the community is ready. The Governor’s budget contains certain components of this closure Plan, while Administration sponsored policy legislation associated with other components of the Plan is proceeding through the Policy Committee process.

As justification for its policy, the Administration cites the need for the state to comply with the 1999 U.S. Supreme Court decision (“Olmstead”), in which the court ruled that keeping persons in institutions who could transition to a community setting constituted discrimination under the Americans with Disabilities Act. The Administration also cites as reasons to close Agnews the high capital improvement costs that would have to be incurred if the facility were left open, and the high cost of institutional care at Agnews as compared to community-based care. According to recent DDS data, the average cost per person residing at a DC is about \$228,000 annually. In addition, due to the level of fixed costs at the DCs and the need to maintain minimum staffing levels, the cost per resident will continue to increase as the total resident population decreases.

It should be noted that the Agnews Developmental Center Plan closure is different than the two most recent closures of Developmental Centers—Stockton DC in 1996 and Camarillo DC in 1997—both of which resulted in the transfer of large numbers of individuals to other state-operated facilities. In contrast, the Agnews Plan relies on the development of an improved and expanded community service delivery system in the Bay Area that will enable Agnew’s residents to transition and remain in their home communities. The DDS proposes to achieve this by:

- Establishing a permanent stock of housing dedicated to serving individuals with developmental disabilities.
- Establishing new residential service models for the care of developmentally disabled adults.
- Utilizing Agnew’s state employees on a transitional basis in community settings to augment and enhance services including health care, clinical services and quality assurance.
- Implementing a Quality Management System (QMS) that focuses on assuring that quality services and supports are available in the community.

The Plan provides for the development of new resources and innovative programs. Key components are as follows:

Housing Development: Through the use of \$11.1 million (one-time) from the Budget Act of 2004 and the passage of AB 2100, Statutes of 2004, the DDS proposes to authorize the Bay Area RCs to fund predevelopment costs (escrow deposit, environmental impact,

various fees and related matters) to establish a permanent stock of housing for individuals with developmental disabilities transitioning from Agnews. The Bay Area RCs will contract with a local non-profit housing coalition to administer the fund. Housing will be developed using a lease/purchase/donate model facilitated by the Bay Area RCs and the local housing coalition.

Family Teaching Home Model: AB 2100, Statutes of 2004, also added a new “Family Teaching Home” model to the list of residential living options. This new model is designed to support up to three adults with developmental disabilities by having a “teaching family” living next door (usually using a duplex). The teaching family manages the individuals’ home and provides direct support when needed. Wrap-around services, such as work and day program supports, are also part of this model.

Bay Area Unified Community Placement Plan. The three Bay Area RCs (Golden Gate, San Andreas, and East Bay) have a unified plan for community placement whereby extensive individual assessment and person-centered planning is conducted. A regional approach (i.e., the greater Bay Area) is then taken for the planning and development of services and supports for individuals with developmental disabilities.

By taking a unified approach to housing, health services, quality assurance, and residential living options, resources can be used more efficiently and effectively, and more individuals can be transitioned to the community, when appropriate. The RCs note that intensive planning is in process to transition about 90 individuals to the community in 2005-06. Funds for this placement plan are contained in the Governor’s budget. This aspect of the Plan will be discussed under **ISSUE B**, below in this agenda.

Pilot Projects for Adults with Special Health Care Needs. Through policy legislation—SB 962 (Chesbro), as introduced-- the DDS is proposing to establish a new pilot residential project designed for individuals with special health care needs and intensive support needs. This pilot would be a joint venture with the Department of Social Services (DSS) and would serve up to 120 adults, with no more than five adults residing in each facility. This pilot would be limited to individuals currently residing at Agnews.

Use of State Employees to Facilitate Transition. Through policy legislation—AB 1378 (Lieber), as introduced--the DDS proposes to use up to 200 Agnew’s employees to augment and enhance services provided in the community. These state employees would be used to provide direct care, resolve crises, train and provide technical assistance to new providers, and other functions. The employees would operate under special contracts between the state and either an RC or service provider. These arrangements would continue through 2009.

Overall Background and Actions Taken in Budget Act of 2004: The Administration's Plan reflects the results of a broad based advisory committee, along with six planning teams and numerous work groups, which provided input to the DDS in planning the closure. These efforts first commenced in early 2003, when Governor Davis first proposed the closure of Agnews.

The decision to postpone the initial closure date was based on the limited capacity of the Bay Area community to provide the range and types of services needed to transition residents living at Agnews.

As such, through the Budget Act of 2004 the Legislature identified \$11.1 million (one-time only General Fund support) to facilitate the initial development of community-based living options for the current residents of Agnews. AB 2100, Statutes of 2004 (Steinberg and Richman), served as implementing legislation for the expenditure of the \$11.1 million, as well as established the new "Family Home Teaching Model" to the list of residential living options. .

Background—Demographics of Residents. As of June 30, 2004, Agnews had 376 residents. Of these residents, over 90 percent are served by one of the three Bay Area RCs (17 percent by Golden Gate; 22 percent by East Bay; and 52 percent by San Andreas). Over 55 percent of the residents have lived at Agnews for more than 20 years. The DDS notes that in recent discussions with residents and their families, almost two-thirds of the persons interviewed identified the Bay Area as being their location of choice.

About 80 percent of the residents have severe to profound mental retardation, with the majority of the individuals having more than one developmental disability including epilepsy, cerebral palsy, and autism. In addition, one-third of the residents have a diagnosed mental disorder, and over one-fourth of the population requires medication for psychiatric conditions or behavioral challenges. The Agnews population is also aging, with 65 percent of the residents being over the age of 40, and 8 percent at 65 years or older.

Background--Agnews Land (East Campus): Agnews currently resides on 87 acres in San Jose. Other acreage once associated with the DC has been sold or transferred in previous years. There are 51 buildings on the campus, comprising 692,800 gross square feet of space. A cogeneration plant provides energy to Agnews and markets electricity through a complex agreement with a third party. The agreement expires in 2020.

The Department of General Services (DGS) is the lead agency in facilitating the future use of the real estate, existing leases, structures and infrastructure of the campus. The DDS has responsibility for maintaining the property for up to one-year from the date of closure, or until the DGS transfers or otherwise disposes of the asset.

Subcommittee Staff Comment and Recommendation: The state has gradually been transitioning from the operation of large, congregate living arrangements as offered through Developmental Centers to providing services and supports to individuals with developmental disabilities to live in community-based settings. To-date, two Developmental Centers have been closed and the Agnews DC has been consolidated from two campuses to the single campus that it is today.

This transition has occurred due to many factors, including (1) the Coffelt Settlement Agreement of 1993 which required the DDS to develop a five-year plan to reduce the resident population of the Developmental Centers by a net of 2,000 individuals; (2) state and national trends toward the declining use of large facilities; (3) the increased availability of Home and Community-Based Waiver funds to pay for community services; and (4) the 1999 U.S. Supreme Court decision (“Olmstead”), in which the court ruled that keeping persons in institutions who could transition to a community setting constituted discrimination under the Americans with Disabilities Act.

During its creation, the principle components of what constitutes the overall Plan have been vetted with many stakeholders (as noted in the Plan’s list of attachments). Some aspects of the Plan, such as the Housing Development piece, were adopted by the Legislature last year. Yet other aspects of the Plan are proceeding through legislative Policy Committee discussions this Session through Administration-sponsored legislation—SB 962 (Chesbro) and AB 1378 (Lieber). Further, other aspects of the Plan are proposed to be funded through the budget process.

Components of the Plan have proceeded in this manner because the Plan relies on the development of an improved and expanded community service delivery system for the greater Bay Area. This community-based system necessitates the development of new service delivery models, the building of service capacity, and the gradual transition of funding to support the newly developing infrastructure.

Other aspects of the Plan will not proceed until next year as the closure date approaches, community-based resources are further developed, consumer transition plans are done, and other key components proceed as necessary. The DDS’ “Major Implementation Steps and Time Lines” schedule (see Hand Out package) notes these various activities.

Therefore, in order to monitor progress on the various Plan components and to ensure quality access to services for consumers, it is recommended to adopt the following Budget Bill Language:

Item 4300-001-001 (Department of Developmental Service, State Support)

“The department shall provide the fiscal and policy committees of the Legislature with a comprehensive status update on the Agnews Plan, on January 10, 2005 and May 15, 2005, which will include at a minimum the following:

(1) A description and progress report on all pertinent aspects of the community-based resources development;

(2) An aggregate update on the consumers living at Agnews and consumers who have been transitioned to other living arrangements;

- (3) An update to the Major Implementation Steps and Timelines;
- (4) A comprehensive update to the fiscal analyses as provided in the original plan;
and
- (5) An update to the plan regarding Agnews' employees.

The above requested information may be provided through the department's budget process, as part of the Regional Center and Developmental Center estimates packages. The updated information shall be made available to the public upon request."

Does the Subcommittee want to adopt the proposed Budget Bill Language?

Questions:

- 1. DDS, Please provide a brief summary of the Agnews Plan, including a summary of the fiscal implications using the table provided in the hand out (page 45 of DDS Agnews Plan).
- 2. DDS, Please provide a brief status update on implementation of the Housing Development component and expenditure of the \$11.1 million (General Fund).

ISSUE “B”— Bay Area Unified Community Placement Plan

Issue: The budget proposes total expenditures of \$39.7 million (\$31 million General Fund) for community placement, including deflection, related to Agnews for a net increase of \$6.7 million (\$1.4 million General Fund) over 2004-05 as shown in the table below. These proposed expenditure amounts assume that (1) the current-year based continues with some baseline adjustments, (2) 57 additional consumers are deflected from being admitted to Agnews in 2005-06, and (3) 90 additional consumers from Agnews are transitioned to the community.

Table: Community Placement, Deflection, and Placement Continuation--Agnews

Description	Governor's 2004-05 Budget	Governor's 2005-06 Budget	Proposed Increase for 2005-06
I. Community Placement Plan			
A. Operations Total	\$3,422,000	\$6,558,000	\$3,136,000
Unified Operations Costs	\$3,422,000	\$4,339,000	\$900,000
State Employees in Community (Clinical and Quality Assurance Teams)		\$1,689,000	\$1,689,000
Consultant Services (housing)		\$280,000	\$280,000
Evaluation of Licensing Pilots		\$250,000	\$250,000
B. Purchase of Services	\$24,376,000	\$19,488,000	-\$4,888,000
Resource Development	\$18,890,000	\$9,300,000	-\$9,590,000
Assessments	\$77,000 (19 consumers)		-\$77,000
Placements (property mgmt & lease)	\$5,409,000 (57 consumers)	\$7,202,000 (90 consumers)	\$1,793,000
State Employees in Community (36 employees for 90 consumers)		\$2,986,000 (90 consumers)	\$2,986,000
Total Community Placement Plan	\$27,798,000	\$26,046,000	-\$1,752,000
II. Placement Continuation			
A. Operations Total		\$349,000	\$349,000
Client Program Coordinators		\$70,000	\$70,000
Nurse Coordinator		\$53,000	\$53,000
Added Access to Oral Health Care		\$226,000	\$226,000
B. Purchase of Services	\$5,209,000	\$13,318,000	\$8,109,000
Unified Placement Continuation	\$5,209,000	\$13,318,000	\$8,109,000
Total Placement Continuation	\$5,209,000	\$13,667,000	\$8,458,000
GRAND TOTALS (I and II)	\$33,007,000	\$39,713,000	\$6,706,000
General Fund	\$29,630,000	\$31,025,000	\$1,395,000
Other Funds	\$3,377,000	\$8,688,000	\$5,311,000

According to the DDS, this estimate reflects the RC Operations and POS resources needed to:

- Facilitate movement from Agnews;
- Stabilize current community living arrangements;

- Deflect the admission of individuals to Agnews; and
- Work with families in identifying individuals for movement.

Generally, the RC Operations resources are used for the following purposes:

- Resource Development: These are the positions needed to develop community living arrangements for consumers moving from Agnews into the community.
- Assessment: These are the positions needed to identify Agnew's residents ready for placement in community living arrangements (proper comprehensive assessment is critical).
- Placement: These are the positions used for placement activities (often more complex, unique placements are required).
- Crisis Service Teams: These are the positions for crisis services which include a behavioral team, a clinical team and an emergency response team.
- State Employees in Community: Clinical and Quality Assurance Teams comprised of Agnew's employees will be established to resolve crises, provide direct care staffing, train and provide technical assistance to new providers, collaborate with Regional Centers on enhanced quality assurance initiatives, and if necessary ("last resort"), directly operate a residential facility until such time as a private provider can be located. These employees have had long-term relationships with the transitioning consumers.
- Consultant Services—Housing: The DDS is using consultant services from the Department of Housing and Community Development, California Housing Finance Agency and others to implement the requirements of AB 2100.

Generally, the RC Purchase of Services (POS) resources are used for the following purposes:

- Resource Development: These expenditures are related to development of new facilities, new programs, and program expansion. This also includes housing corporation costs associated with increasing the stock of affordable Bay Area housing through purchase, rehabilitation or construction of real property.
- Assessment: This is individualized and comprehensive identification of consumer supports and services needs for stabilized community living.
- Placement: This is the phase-in of consumers to community settings based on consumer-specific information.
- Deflection: This is the placement POS for residential expenditures of facilities developed with current-year start-up to deflect admission from Agnews. These facilities are developed based on a comprehensive analysis of Developmental Center admission data, current trends in needed services specific to the Regional Center catchment area, and other local aspects.

Subcommittee Staff Comment and Recommendation: The proposed Bay Area Community Placement Plan, as outlined above, is generally consist with previously used assumptions for Community Placement Plans that have been contained in the budget for the past two-years, except for: (1) the use of state employees, (2) the evaluation of the licensing pilot (longitudinal evaluation), and (3) the oral health funds.

Overall, the proposal seems reasonable. It should be noted that many individuals living at Agnews have intensive medical needs and often require unique assistance for community living arrangements. With the average cost of an individual residing at a Developmental Center being about \$228,000 annually, transitions to community-based arrangements, *when appropriate for the individual*, make fiscal sense.

Due to likely technical adjustments that may occur at the May Revision, such as updates for costs and caseload, it is recommended to hold this issue open pending the Governor's May Revision.

Questions:

1. DDS, Please provide a brief description of the budget proposal, including how this Community Placement Plan is uniquely different and why.

III. State Developmental Centers

Summary of Funding and Enrollment

State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training. Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. setting Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Sierra Vista, a 54-bed facility located in Yuba City, and Canyon Springs, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

State operated facilities are entitled to payment for Intermediate Care Facility (ICF) services at actual allowable costs for services for individuals with developmental disabilities. Reimbursement levels for payment of services are based on rates developed by the DDS and approved by the DHS. Medi-Cal reimbursement is available for most DC services, except for nine residential units at Porterville DC (no longer eligible due to forensic-related issues). According to recent DDS data, the average cost per person residing at a DC is about \$228,000 annually.

The revised current-year budget reflects total expenditures of \$721.5 million (\$387.1 million General Fund) for the DCs or an increase of \$16.4 million (\$8.3 million General Fund) over the Budget Act of 2004. Most of this increase is due to rising employee compensation costs.

The budget proposes expenditures of \$699.2 million (\$373.2 million General Fund), excluding state support, to serve 3,071 residents who reside in the state DC system. This reflects a caseload decrease of 206 residents, or 7.1 percent, and a net reduction of \$22.3 million, or 3.1 percent, as compared to the revised 2004-05 budget.

Developmental Center Residents			
Fiscal Year	DC Residents	Yearly Difference in Residents	Percent Decrease
2000-01	3,768		
2001-02	3,676	-92	2.4%
2002-03	3,583	-93	2.5%
2003-04	3,417	-166	4.6%
2004-05	3,307	-110	3.2%
(Estimated)			
2005-06	3,101	-206	6.2%
(Proposed)			

ITEMS FOR DISCUSSION

1. Developmental Center Adjustments for Population

Issues: The budget assumes a decrease of \$25.1 million (\$13.7 million General Fund) and 397 positions resulting from a projected decline in population of 206 residents (from 3,307 residents to 3,101 residents) in 2005-06. This overall population adjustment includes a reduction of \$9.5 million (total funds) to the Agnews Developmental Center baseline as contained in the Agnews Plan.

In addition to this proposed budget adjustment, the Legislative Analyst's Office (LAO) contends that the current-year population reflects a lower-than-anticipated caseload and should be reduced for savings of \$4 million (General Fund). Specifically, they note that the current-year is over estimated by 87 clients.

The estimated budget year adjustment has been verified through discussions with the department, LAO and Subcommittee staff. However, the LAO has verified that a current-year adjustment for population needs to be made. This is the same issue raised by the LAO regarding the DDS' Regional Center estimate package.

Background: Each year, the budget is adjusted to reflect direct care and non-level-of-care staffing requirements in order to meet resident needs and licensing requirements. These staffing adjustments are based on the projected number of individuals living at the DCs and their individual program needs based on the Client Developmental Evaluation Report (CDER) process.

The DC population is based on three components—admissions, placements from the DCs and deaths.

Subcommittee Staff Comment and Recommendation: Based on updated information, it is recommended to (1) reduce by \$4 million (General Fund) in 2004-05 as identified by the LAO, and (2) adopt the budget year adjustment pending receipt of the Governor's May Revision.

Questions:

1. DDS, Please provide a brief summary of the adjustments.

2. Conforming Adjustments

Issue: The Governor's budget assumes net savings of \$2.8 million (total funds), beyond the Agnews baseline adjustment as contained in the above overall DC population estimate, due to the transition of 30 individuals into community-based living arrangements. This is consistent with the Governor's Agnews Plan.

This is a conforming action in that if the Bay Area Community Placement Plan is adopted, this reduction is assumed to be taken because of the interaction of the DDS assumptions and design of the Agnews Plan.

Subcommittee Staff Comment and Recommendation: It is recommended to take action on this item when the Bay Area Community Placement Plan adjustment is taken.

LAST PAGE of AGENDA